

Hagler, Tom

From: Hagler, Tom
Sent: Monday, January 19, 2015 2:19 PM
To: Hagler, Tom
Subject: Fw: A Drought and Water Quality Standards in the Bay Delta

From: Goss, Heather
Sent: Thursday, January 30, 2014 7:02 AM
To: Keating, Jim; Ford, Peter; Gorke, Roger; Buffo, Corey; VanGilder, Noah; Hagler, Tom
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

I just set up a meeting request for 12-1 (looks like the best block for folks based on Pete's and Roger's emails and for other folks on the calendar)

Ex. 5 - Deliberative Process

Heather Goss
 Water Quality Standards Program
 U.S. EPA | Office of Water | Office of Science and Technology
 1200 Pennsylvania Avenue, NW, M/C 4305-T, Washington, DC 20460
 Tel. (202) 566-1198 | Fax (202) 566-0409 | goss.heather@epa.gov

From: Keating, Jim
Sent: Thursday, January 30, 2014 9:36 AM
To: Ford, Peter; Gorke, Roger; Goss, Heather; Buffo, Corey; VanGilder, Noah; Hagler, Tom
Subject: Fw: A Drought and Water Quality Standards in the Bay Delta

Pete,
 I thought I'd pass along these thoughts to you and Heather.

Ex. 5 - Deliberative Process

Jim

From: Keating, Jim
Sent: Wednesday, January 29, 2014 7:28:54 PM
To: Buffo, Corey; Gorke, Roger
Cc: Gallagher, Kathryn; Beaman, Joe; Novak, Rachael; VanGilder, Noah; Fabiano, Claudia
Subject: Re: A Drought and Water Quality Standards in the Bay Delta


Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Buffo, Corey
Sent: Wednesday, January 29, 2014 5:19:53 PM
To: Gorke, Roger
Cc: Gallagher, Kathryn; Beaman, Joe; Novak, Rachael; VanGilder, Noah; Keating, Jim; Fabiano, Claudia
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

Ex. 5 - Deliberative Process


Corey Buffo
 Chief, Regional, State, and Tribal Standards Support Branch
 Office of Science and Technology
 Office of Water
 USEPA
Buffo.Corey@EPA.gov


202-566-1279 

From: Gorke, Roger
Sent: Wednesday, January 29, 2014 3:30 PM
To: Novak, Rachael; VanGilder, Noah; Keating, Jim; Fabiano, Claudia; Buffo, Corey
Cc: Gallagher, Kathryn; Beaman, Joe
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

Ex. 5 - Deliberative Process

Roger Gorke
 Senior Policy Advisor
 Office of Water
 U.S. Environmental Protection Agency

PH: 202-564-0470 

FAX: 202-564-0500 
gorke.roger@epa.gov

From: Novak, Rachael
Sent: Wednesday, January 29, 2014 3:17 PM
To: VanGilder, Noah; Gorke, Roger; Keating, Jim; Fabiano, Claudia; Buffo, Corey
Cc: Gallagher, Kathryn; Beaman, Joe
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

Thanks Noah,

I appreciate the WQS change question, but did Tom also mention what the ecological risk in question is? I vaguely remember coming across a study estimating a 1/3 reduction of a salmonid population, but my recollection is fuzzy at present. It seems the question of level of risk to the AL should also be included in the discussion since WQS are meant to protect DU's, right?

Best,
 Rachael

From: VanGilder, Noah
Sent: Wednesday, January 29, 2014 3:04 PM
To: Gorke, Roger; Keating, Jim; Fabiano, Claudia; Buffo, Corey
Cc: Gallagher, Kathryn; Novak, Rachael
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

Okay, I've spoken with Tom Hagler and he gave me an *extremely* detailed rundown of this issue and its background. Here's the scoop.

California regulates water differently from most states. In addition to regulating its quality under the CWA, they also heavily regulate its use and distribution under state water rights law. WQS are typically implemented through water rights decisions, issued pursuant to the state's water rights authority, instead of conventional NPDES permits.

The two pumping stations in question, the Banks plant and the Jones (nee Tracy) plant, are subject to so-called "X2 requirements". As I described below, they're only allowed to divert water if the X2 point, the most downstream location of a particular salinity value, remains downstream of certain points. The X2 requirements were federally promulgated in 1984 and adopted by the state (and approved by EPA) in 1995.

Because of this year's extreme drought, the X2 points have shifted really, really far upstream. So far upstream, in fact, that even if both plants halted all diversions and allowed natural flow conditions the X2 requirements *still* wouldn't be met. Meeting the requirement would require discharging water from reservoirs, which nobody wants to do in a drought year.

What's happening now is that the federal and state governments (which operate the Banks and Tracy plants, respectively) are looking to submit an emergency change petition under California's water rights law. That petition will ask for a relaxation of the X2 requirement and an opening of the Delta Cross Channel, which is otherwise closed during some salmon migration periods.

The question before us is this: **if the change petition is approved, does that constitute a change to water quality standards?**

Ex. 5 - Deliberative Process

Let me know if you have any questions. SHPD people, feel free to forward this to Sara if you think it'd be helpful to her.

Thanks,
Noah

From: VanGilder, Noah
Sent: Monday, January 27, 2014 5:56 PM
To: Gorke, Roger; Keating, Jim; Fabiano, Claudia; Buffo, Corey
Cc: Gallagher, Kathryn; Novak, Rachael
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

FYI, I'm scheduled to have Tom Hagler fill me in on this at noon ET tomorrow and I'll report out what I hear.

Thanks,
Noah

From: VanGilder, Noah
Sent: Monday, January 27, 2014 3:20 PM
To: Gorke, Roger; Keating, Jim; Fabiano, Claudia; Buffo, Corey
Cc: Gallagher, Kathryn; Novak, Rachael
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

Copying Kathryn and Rachael at Elizabeth Skane's request.

From: VanGilder, Noah
Sent: Monday, January 27, 2014 2:18 PM
To: Gorke, Roger; Keating, Jim; Fabiano, Claudia; Buffo, Corey
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

Okay, to start with, here's some information I was able to find on my own.

Order #1641 pertains in part to water diversions at two facilities, the Banks Pumping Plant (near Livermore) and the Jones Pumping Plant (formerly the Tracy Pumping Plant, in Tracy). Both of these facilities are not authorized to divert water when X2 – the most downstream location of a particular salinity level – shifts upstream of a certain location. The Banks and Jones plants are managed by the U.S. Bureau of Reclamation (USBR or BOR) and California Department of Water Resources (DWR), respectively.

Based on Will Stelle's e-mail below, it looks like the BOR and the DWR are likely to ask for those restrictions to be modified in some way. That would most likely mean that they are looking for permission to continue making diversions even though that may affect the salinity of the estuary.

Relevant sections of order 1641 are copied below, the whole thing is attached.

Thanks,
Noah

WATER RIGHT DECISION 1641 – Relevant excerpts

Page 150:

“(1) Diversion by the USBR at Banks Pumping Plant is not authorized when the Delta is in excess conditions⁷⁹ and such diversion causes the location of X2 to shift upstream so far that:

- (a) It is east of Chipps Island (75 river kilometers upstream of the Golden Gate Bridge) during the months of February through May, or
- (b) It is east of Collinsville (81 kilometers upstream of the Golden Gate Bridge) during the months of January, June, July, and August, or
- (c) During December it is east of Collinsville and Delta smelt are present at Contra Costa Water District's point of diversion under Permits 20749 and 20750 (Application 20245)."

Page 155:

"(1) Diversion by the DWR at Tracy Pumping Plant is not authorized when the Delta is in excess conditions⁸³ and such diversion causes the location of X2 to shift upstream so far that:

- (a) It is east of Chipps Island (75 river kilometers upstream of the Golden Gate Bridge) during the months of February through May, or
- (b) It is east of Collinsville (81 river kilometers upstream of the Golden Gate Bridge) during the months of January, June, July, and August, or
- (c) During December it is east of Collinsville and Delta smelt are present at CCWD's point of diversion under Permits 20749 and 20750 (Application 20245)."

Pages 150 and 155: "For the purposes of this term, X2 is the most downstream location of either the maximum daily average or the 14-day running average of the 2.64 mmhos/cm isohaline."

From: VanGilder, Noah
Sent: Monday, January 27, 2014 1:48 PM
To: Gorke, Roger
Cc: Keating, Jim; Fabiano, Claudia; Skane, Elizabeth
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

Thanks, Roger. I'll let you know what I hear.

From: Gorke, Roger
Sent: Monday, January 27, 2014 1:30 PM
To: VanGilder, Noah
Cc: Keating, Jim; Fabiano, Claudia; Skane, Elizabeth
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

Thanks Noah,

I believe the request is coming from other feds to the State Water Resources Control Board. I would suggest reaching out to Tim Vendlinski (water) and Tom Hagler (ORC) as first points of contact. They will be the most knowledgeable on the issue so that your specific points of contact get caught off guard. If that makes sense.

And, please keep me in the loop.

Thanks

Roger

Roger Gorke
 Senior Policy Advisor
 Office of Water
 U.S. Environmental Protection Agency

PH: 202-564-0470

FAX: 202-564-0500

gorke.roger@epa.gov

From: VanGilder, Noah
Sent: Monday, January 27, 2014 1:01 PM
To: Gorke, Roger
Cc: Keating, Jim; Fabiano, Claudia; Skane, Elizabeth
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

Hi Roger,

We're looking for a little more detail about this request and Elizabeth suggested reaching out to you. Anything else you can tell us about just what modifications California is looking for?

Also, I'd like to make my staff-level contacts in EPA Region 9 aware of this. Any sensitivities that would preclude that?

Thanks,
 Noah

From: Skane, Elizabeth
Sent: Monday, January 27, 2014 11:38 AM
To: Hisel-McCoy, Sara; Southerland, Elizabeth
Cc: Keating, Jim; VanGilder, Noah; Fabiano, Claudia; Buffo, Corey
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

Got it—I will let him know. Sounds like the meeting request may come from Ken Kopocis. Thanks all.

Elizabeth Skane | Special Assistant | Office of Science & Technology / Office of Water / US EPA | 202.564.5696

From: Hisel-McCoy, Sara
Sent: Monday, January 27, 2014 11:21 AM
To: Skane, Elizabeth; Southerland, Elizabeth
Cc: Keating, Jim; VanGilder, Noah; Fabiano, Claudia; Buffo, Corey
Subject: RE: A Drought and Water Quality Standards in the Bay Delta

Jim keating an Noah van gilder

Sara Hisel-McCoy, Director
 Standards and Health Protection Division
 Office of Water, Office of Science and Technology
 US Environmental Protection Agency
 1200 Pennsylvania Ave, NW
 Washington, DC 20460

Tel: 202-566-1649

EPA West 6105D

From: Skane, Elizabeth
Sent: Monday, January 27, 2014 11:14 AM
To: Southerland, Elizabeth; Hisel-McCoy, Sara
Subject: FW: A Drought and Water Quality Standards in the Bay Delta

We're being asked to comment on a request to relax/waive WQS for the California Bay Delta because of the drought. OW would like someone from OST to meet with OW (I guess Roger and/or Ellen) and R9 in the next few days. Who should I tell Roger can work on this from OST?

NB: they're asking us NOT to reach out to NOAA and DOI before we get our ducks in row at EPA.

Elizabeth Skane | Special Assistant | Office of Science & Technology / Office of Water / US EPA | 202.564.5696



From: Gorke, Roger
Sent: Monday, January 27, 2014 11:08 AM
To: Skane, Elizabeth
Subject: FW: A Drought and Water Quality Standards in the Bay Delta
Importance: High

Did Betsy see this? Should I always CC you on stuff to her?

Roger Gorke
Senior Policy Advisor
Office of Water
U.S. Environmental Protection Agency

PH: 202-564-0470



FAX: 202-564-0500



gorke.roger@epa.gov

From: Gorke, Roger
Sent: Friday, January 24, 2014 10:37 AM
To: Neugeboren, Steven; Southerland, Elizabeth; Hagler, Tom; Vendlinski, Tim; Diamond, Jane; Moyer, Robert
Subject: A Drought and Water Quality Standards in the Bay Delta
Importance: High

All,

Ex. 5 - Deliberative Process

We would like to set up a chat about this early next week. Also let me know with whom specifically I should be working with in OGC and OST.

Thanks and let me know if you have any questions,

Roger

Roger Gorke
Senior Policy Advisor
Office of Water
U.S. Environmental Protection Agency

PH: 202-564-0470

FAX: 202-564-0500

gorke.roger@epa.gov

From: Belin, Letty [mailto:letty_belin@ios.doi.gov]
Sent: Friday, January 24, 2014 9:53 AM
To: Will Stelle - NOAA Federal
Cc: Gorke, Roger; Eileen Sobeck; Jay_J_Jensen@ceq.eop.gov
Subject: Re: California Water Quality

Thanks for looping in Roger and EPA. One other question Roger: With Karen Schwinn, our prior EPA regional point person, gone should we reach out to Tom Hagler, given that he has such extensive history on Bay Delta? Or is there someone in Karen's spot who should be our first point of contact? With both David nawi and Karen gone, we have really lost touch with EPA Region 9, and we need to ramp up our communication and coordination asap, given the drought and upcoming request for relaxation of water quality requirements. Thanks a lot,
Letty

On Thu, Jan 23, 2014 at 7:33 PM, Will Stelle - NOAA Federal <will.stelle@noaa.gov> wrote:
Dear Roger:

A point of inquiry. BOR and DWR are anticipating proposing a temporary change petition to the California Water Resources Board that may address several water quality based operating rules in the State's Order #1641, likely on modifying the requirement for X2-related outflows commencing February 1st, and perhaps other operational adjustments as well. At present writing, this is all a work in progress.

Question: Does EPA have a mandatory role in acting upon an action of the SWRCB one way or the other prior to its taking affect, and if so, what is that role and who (which office) has that responsibility? Might you have a point of contact?

Context: We on the operations and fish side of the house are also working in parallel on other potential adjustments, and how and when the water quality adjustments might occur is highly relevant to our work.

Many thanks,

Will

--

William W. Stelle, Jr.
Regional Administrator
NOAA Fisheries West Coast Region
U.S. Department of Commerce

Office: 206-526-6150

Ex. 6 - Personal Privacy

Will.Stelle@noaa.gov



Find us online

www.westcoast.fisheries.noaa.gov



--

Letty Belin
Counselor to the Deputy Secretary
U.S. Department of the Interior

202-208-6291